

**AMENDMENTS TO SB 411
RECOMMENDED BY MONTANA SOCIETY OF CPAs**

1. Page 2, line 1.
Strike: "but not less than \$50."

Rationale for amendment: This amendment eliminates the minimum penalty of \$50 and ensures no penalty will be assessed for the late filing of a tax return for a refund.

2. Page 2, line 9.
Following: "filing a return."
Insert: "No penalty shall be imposed under subsection (2)(a) or (2)(b) with respect to any portion of the unpaid tax if it is shown that there was a reasonable cause for such portion to be unpaid and the taxpayer acted in good faith with respect to such portion."

Rationale for amendment: This amendment prevents the imposition of a late payment if the taxpayer shows reasonable cause for the unpaid portion of the tax and acted in good faith. This amendment is patterned after federal law, 26 USC 6664(c)(1).

3. Following: Page 2, line 9.
Insert: "(d) Any penalty imposed under subsection (1) for failure to file shall be reduced by the amount of any penalty imposed under subsection (2)(a) or (2)(b) for failure to pay."

Rationale for amendment: This amendment prevents stacking of late filing and late payment penalties. This amendment is patterned after federal law, 26 USC 6651(c)(1).

4. Following: Page 2, line 20.
Insert: "(iii) The amount of the substantial understatement shall be reduced by that portion of the understatement which is attributable to:
(A) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or
(B) any item if the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and there is a reasonable basis for the tax treatment of such item by the taxpayer."

Rationale for amendment: This amendment reduces a substantial understatement by the amount of those tax items for which there is or was substantial authority or for which there was disclosure and a reasonable basis for the tax treatment. This amendment is patterned after federal law, 26 USC 6662(d)(2)(B).